

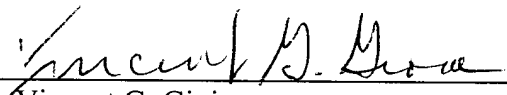
Appln. No. 10/027,597  
Amdt. date September 16, 2003  
Reply to Office action of March 21, 2003

**REMARKS/ARGUMENTS**

The Office action dated March 21, 2003 has been reviewed and the comments therein carefully considered. In the Office action, various questions and issues are raised concerning the description of the new variety. By the amendments in the accompanying Substitute Specification, Applicant has made a *bona fide* attempt to provide a response to these questions issues with information available.

In view of the foregoing amendment and remarks, it is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are earnestly solicited. If any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,  
CHRISTIE, PARKER & HALE, LLP

By   
\_\_\_\_\_  
Vincent G. Gioia  
Reg. No. 19,959  
626/795-9900

VGG/llb  
Enclosures  
Petition for Extension of Time  
Substitute Specification (Marked-up Copy)  
Substitute Specification (Clean Copy)  
Check for \$930

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SUBSTITUTE SPECIFICATION  
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1 45939/VGG/H320

KERRIA JAPONICA PLANT NAMED 'FUBUKI NISHIKI'

5 CLASSIFICATION

The present invention relates to a new *Kerria japonica* (L.) DC [*Corchorus japonicus* Thunb.] plant.

VARIETY DENOMINATION

10 The new plant has the varietal denomination 'FUBUKI NISHIKI'.

BACKGROUND OF THE INVENTION

15 The present invention relates to a new and distinct variety of *Kerria japonica* (L.) DC [*Corchorus japonicus* Thunb.], which was discovered as a branch sport in a cultivated area of a controlled planting of from the species *Kerria japonica* (unnamed, unpatented) in Kawaguchi City, Saitama Prefecture, Japan. The varietal denomination of the new variety is 'FUBUKI  
20 NISHIKI'.

The genus *Kerria* is included in the family Rosaceae, which comprises about 100 genera and 2,000 species of herbs, shrubs and trees native mostly to China and Japan. *Kerria* comprises one species, *Kerria japonica* (L.) DC, native to the temperate  
25 regions of eastern Asia, which possesses desirable ornamental characteristics.

*Kerria japonica* is a deciduous shrub with ~~Green~~ green leaves and glabrous branches. Leaves of the typical species are alternate, oval, long acuminate, serrated on the margins with  
30 pinnate venation. It generally has ~~Yellow~~ yellow flowers.

SUMMARY OF THE INVENTION

The new variety was discovered as a branch sport and differs from its parent by white flecked variegated foliage, and  
35 White white and Creamy greyed-green striped flowers and slightly

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larger leaf size. Asexual reproduction of the new variety by vegetative cuttings, performed in Lewisberry, Pennsylvania and  
5 Vacaville, California have confirmed that the distinctive characteristics of the new variety are stable and transmitted to succeeding generations, and the new variety reproduces true to type.

10 COMPARISON WITH PARENTS

'FUBUKI NISHIKI' is distinguished from its parent and all other varieties of *Kerria japonica* of which I am aware by ~~white~~  
its white flecked variegated foliage, white and greyed-green  
striped flowers and ~~White and Creamy marked flowers~~ slightly  
15 larger leaf size. The parent plant has completely ~~Green~~ green  
foliage and ~~Yellow~~ yellow flowers.

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BRIEF DESCRIPTION OF THE ILLUSTRATIONS

5 The accompanying illustrations show a specimen of the new  
cultivar in a photo illustration as true to color as is  
reasonably possible to make in an illustration of this  
character.

FIG. 1 illustrates the distinctive variegated foliage of  
'FUBUKI NISHIKI'; and

10 FIG. 2 illustrates the flower of 'FUBUKI NISHIKI'.

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DETAILED DESCRIPTION OF THE INVENTION

5 'FUBUKI NISHIKI' has not been observed under all possible environmental, cultural and light conditions. The following observations and descriptions are of plants grown in Vacaville, California and Lewisberry, Pennsylvania. In this description, color references are to *The Royal Horticultural Society Colour*  
10 *Chart* (1995) and terminology used in the color descriptions herein refers to plate numbers in this color chart. Phenotypic expression may vary with light intensity, cultural and environmental conditions.

15 ~~BOTANICAL CLASSIFICATION~~

~~—— *Kerria japonica* (L.) DC. [*Corchorus japonicus* Thunb.]~~

CLASSIFICATION

Botanical:

*Kerria japonica* (L.) DC.

[*Corchorus japonicus* Thunb.]

20

Parentage:

Branch sport from the species

Propagation:

Stem cuttings

PLANT

Size:

About 2 m tall; about 3 m across

25

Habit:

Upright; multi-branched shrub  
when young, ~~becoming spreading~~  
with age with an increasingly  
spreading and pendulous habit in  
its second year of growth

30

Branching

Lateral Branches:

Numerous, obliquely upright  
becoming pendant with age

Typical Number Branches

35

~~Branch Number:~~

~~More than 300~~ 10 to 20

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Observed Number

Branches ~~Branch~~ Number: ~~125~~ 19

5

Size

Length: About ~~2~~ 1 m long

Diameter: ~~Between 4 to 5 mm~~ About 5 to 6 mm at base

10

Color: Near 139C

New Shoots: ~~Green Group, near~~ Near 139C

~~Mature Branches:~~ ~~Green Group, near~~ 139C

LEAF

15

Shape: Ovate to oblong; leaf tip long; acuminate occasionally hooked; leaf base mostly cuneate to obtuse and occasionally cordate or truncate

20

Size: ~~Between 9 to 10 cm long and about 5 cm wide~~ About 5 to 10 cm long and 2.5 to 5 cm wide.  
(Parent plant has typical leaf size of 3 to 7 cm long and 2 to 3.5 cm wide.)

25

Arrangement: Alternate

Margin: Coarsely and irregularly doubly serrate

Texture/Substance: Thin, chartaceous

30

Upper Surface: Glabrous with impressed veins, nearly bullate

Under Side: Glabrous to slightly pubescent with prominent veins

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COLOR

5 ~~The following Color Readings are of specimens grown in  
Vacaville, California, USA and Lewisberry, Pennsylvania, 2 year  
old specimen in 5 gallon containers.~~

VARIEGATION PATTERN

10 Flecked, splashed, and mottled in a random pattern. Areas  
of variegation are frequently long and narrow, parallel to the  
side veins of the leaf. There are additional smaller areas of  
variegation that show no consistent shape and are randomly  
distributed across the leaf. The variegation typically covers  
25% to 50% of the leaf surface. Although the pattern of  
15 variegation is random, every leaf displays noticeable patterns  
of variegation. Foliage holds the initial variegation from  
emergence through the growing season.

Young Foliage

20 Green Sections

Upper Side: Near ~~Green Group, near 143A~~

Under Side: Near ~~Green Group, near 143B~~

Variegated Sections

25 Upper Side: ~~Greyed-Green Group, near~~  
Between 196C and 196D, and ~~White~~  
~~Group, near 155B~~

Under Side: Near ~~Greyed-Green Group, near~~  
196D

30 Mature Foliage

Green Sections

Upper Side: Near ~~Green Group, near 143A~~

Under Side: Near ~~Green Group, near 143B~~

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Variegated Sections

5 Upper Side: ~~Greyed-Green Group, near~~ Between  
196C and 196D, ~~and White Group,~~  
near 155B

Under Side: Near ~~Greyed-Green Group, near~~  
196D

10 Venation Pattern: Alternately pinnate depressed  
above, raised beneath

Petiole

Size: Between about 0.5 to 1.5 cm

Coloration: Near ~~Green Group, near~~ 143A

15 Texture: Smooth

Internodes: Between about 1 to 8 cm

Hardiness: USDA Zone ~~4 (-30°F to -20°F)~~ 5  
(20°F to -10°F)

20 Vigor: Rapid growth rate

Pests/Diseases: No pest or disease problems  
noted

INFLORESCENCE

25 Bloom Period

Outdoors: March to May

Greenhouse: Not observed in greenhouse  
conditions

Flower: Rotate

30 Arrangement: Solitary, terminal on lateral  
branchlets

Size: About 3.5 cm wide

Shape of Inflorescence

35 ~~shape:~~ Solitary, terminal on lateral  
branchlets



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Fragrance:                      None noted

5      Lastingness of  
individual blooms:              Between 3 to 5 days

~~Petalage~~

Flower Petals

Typical Number:              About 5

10      Observed Number:              About 5

    Shape:                      Ovate

        Apex:                      Retuse occasionally apiculate

        Base:                      Abruptly attenuate

15      Size:                      About 16 mm long; about 7 mm  
wide

    Margin:                      Entire and smooth, often  
undulate

    Curvature:                  Slightly inwardly cupped

20      Arrangement:                  Rotate

    Color

Ground Background      ~~Yellow-Orange Group, near~~ Near  
color:                              145B

25      Variegated                  ~~Greyed-Green Group, near 196C-D~~  
section:                              Between 196C to 196D, with  
occasional ~~Yellow-Orange~~ yellow  
~~Group, near 11B; occasional~~  
random markings or stripes  
30      parallel to the long axis of the  
petal, occasional marginal  
variegation

    Sepals[[:]]                  ~~Pointed, with some striped~~  
~~variegation~~

35      Shape:                      Pointed

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Color

Ground

5 Background color: Near 194A

Variegation

color: Near 155B

REPRODUCTIVE ORGANS

10 Androecium

Stamens: Between about 30-40

Anther

Shape: Club shaped

15 Color: ~~Near Yellow-Orange Group, near~~  
11B

Pollen amount: Numerous Voluminous

Color: ~~Yellow-Orange Group, near~~ Near  
11B

20 Gynoecium

Pistil count: About 5

Length: About 2 mm

Stigma Color: ~~Yellow-Orange Group, near~~ Near  
11B

25 Style Color: ~~Yellow-Orange Group, near~~ Near  
11B

Ovary Color: ~~Yellow-Orange Group, near~~ Near  
11B

30 Fruit Type: Achene

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I CLAIM:

5 A new plant variety of *Kerria japonica* of the variety  
substantially as shown and described.

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ABSTRACT

5 A new plant variety of *Kerria japonica* characterized by  
~~White~~ white flecked variegated foliage, ~~and White and Creamy~~  
white and greyed-green striped flowers and slightly larger leaf  
size.

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~~VGG/vat~~ VGG/11b

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